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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BAKER + HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON, DC 20036-5304

EXAMINER

HO, THOMAS Y

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/848,413

Applicant(s)

QUIGLEY ET AL.

Examiner

Thomas Y Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-10, 12-13, 15-16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dreifert US5370428 in view of Brautigam US6230457, and further in view of case law.

Before addressing the claimed limitations, the following is noted about the prior art references:

Dreifert discloses a first embodiment for a locking mechanism for a sash 10 in a frame 20, wherein the keeper 12 is mounted on the sash 10, while the latch bar 21, handle 52, and pins 40 are mounted on the frame 20. Dreifert also discloses a second embodiment wherein the positions can be switched (col.9, ln.9-14), thus placing the pins 40, latch bar 21, and handle 52 on the sash 10 and the keeper 12 on the frame. The second embodiment is being used as the basis for the rejection.

Brautigam discloses a first embodiment for a latching mechanism for a sash 14 in a frame 12, wherein the keeper 24 is fixedly mounted on the sash 14, while the latch bar 20, handle 40, and pins 22 are movably mounted on the frame 12. Brautigam also discloses several further embodiments of the device (col.5, ln.34-42). Brautigam discloses placing the latch bar 20 and pins 22 movably mounted on either the sash 14 or frame 12, with the keeper 24 fixedly mounted

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on the other of the sash 14 or frame 12. Brautigam also discloses that the latch bar 20 may have the pin 22 mounted thereto, and the keeper 24 fixedly mounted on the other of the sash or frame, or the latch bar 20 may have the keeper 24 mounted thereto, with the pin 22 fixedly mounted to the other of the sash or frame (col.5, ln.34-42). All are disclosed as equivalent means for the device. The multiple equivalent embodiments covers an embodiment where the latch bar 20 is mounted on the frame 12, with the keeper 24 mounted on the latch bar 20, and the pins 22 fixedly mounted on the sash 14. These explanations should assist in interpreting the rejections below.

Case law recites that inasmuch as the references disclose these elements as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982). Furthermore, the reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art. In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955); In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

As to claim 1, Dreifert discloses, an apparatus for latching a door 10 against a frame 20 (Dreifert discloses a first embodiment with the device on the frame and the keeper on the door, but also discloses a second embodiment with the device on the door and the keeper on the frame, and the second embodiment being the one used in the rejection; col.9, ln.5-15), comprising a handle lever 52 mounted on the door (col.9, ln.5-15), a latch bar 21 mounted on the door, a door pin 40 fixed on the latch bar, and a keeper 12 having a slot 25 and cam surfaces 16 fixedly mounted on the frame. The difference between the claim and Dreifert is the claim recites that the

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latch bar is mounted on the frame, and the latch bar has the keeper mounted thereon (instead of the door pin), with the door pin fixedly mounted on the door, and also that the handle lever has a handle pin while the latch bar has the slot for the handle pin.

Brautigam discloses a window-latching device similar to that of Dreifert. In addition, Brautigam further teaches the equivalence of various mounting configurations for the device (col.5, ln.34-44), including that the latch bar can be mounted on the door/sash or the frame (it should be noted that Dreifert already has the handle lever mounted on the door), and that the latch bar can have either a door pin or a keeper mounted thereon, with the other of the door pin or keeper fixedly mounted. It would have been obvious to one of ordinary skill in the art, having the disclosures of Brautigam and Dreifert before him at the time the invention was made, to modify the assembly of Dreifert to have an alternative, but equivalent mounting arrangement, as taught by Brautigam, to obtain the claimed device. One would have been motivated to make such a combination because inasmuch as the references disclose these elements as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

Dreifert discloses that the handle lever 52 has the slot 66 while the latch bar has the pin 70, which is the exact mirror opposite of the relationship claimed. It would have been obvious to one of ordinary skill in the art, having the disclosure of Dreifert before him at the time the invention was made, to reverse the pin/slot relationship between the handle and latch bar of Dreifert to obtain a handle lever having a pin to engage a slot in the latch bar. One would have been motivated to make such a combination because the reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration

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within the skill of the art. In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955); In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

As to claim 2, Dreifert discloses, wherein during movement from the first position to the second position, said handle rotates past a top dead center position (col.16, ln.5-15) so a reaction force retains said latch bar and handle in the second position.

As to claim 5, Dreifert discloses, wherein the door is hinged to the frame at one side of the door, and said handle is mounted to the door at an opposite side of the door from the hinged side.

As to claim 6, Dreifert discloses, wherein the door is an oven door. This limitation holds little patentable weight because it is intended use for the device and fails to discloses any structural limitations.

As to claim 7, Dreifert discloses, wherein said handle rotates about a first axis 65, and has a handle portion 50 on one side of the first axis, and said handle pin 70 is on the other side of the axis, and wherein said second slot 66 is a substantially straight slot extending substantially perpendicular to the direction of reciprocating travel of said latch bar 21 (see Figure 2).

As to claim 8, Dreifert discloses, wherein said latch bar is biased towards the first position. The latch bar is biased by movement of the handle, and the engagement of the pin 70 with slot 66.

As to claim 9, Dreifert discloses, wherein said handle is biased towards the first position.

As to claim 10, Dreifert discloses, wherein when said latch bar and said handle are in the first position, said door pin is unobstructed by said first slot so that the door is unlatched.

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As to claim 12, Dreifert in view of Brautigam disclose (Dreifert discloses the structures, Brautigam teaches their mounting arrangement relative to one another), an apparatus for latching a door against a frame (Dreifert discloses a first embodiment with the device on the frame and the keeper on the door, but also discloses a second embodiment with the device on the door and the keeper on the frame, and the second embodiment being the one used in the rejection; col.9, ln.5-15), comprising: a first engagement means 40 extending from the door 10 (Brautigam teaches the door pin fixed on the door with the keeper mounted on the latch bar); a second engagement means 12,21,52 mounted to the frame including a slot 15 configured to move substantially linearly and cooperating with said first engagement means (Brautigam teaches moving the latch bar from the door/sash to the frame, and that the keeper is mounted on the reciprocating latch bar), said first and second engagement means movable between a first position where the door is unlatched and a second position where said first and second engagement means latches the door closed; and actuating means 52 mounted to the door (col.9, ln.5-15) for actuating the second engagement means to move between the first and second positions, the actuating means including a rotating handle having a handle pin 70 extending therefrom that contacts a slot 66 (reversal of components, namely the pin and slot) movable with the second engagement means to move the second engagement means from the first to the second position when the handle is rotated.

As to claim 13, Dreifert discloses, wherein said handle rotates past a top dead center position so that a reaction force retains said second engagement means in said second position (col.16, ln.5-15).

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As to claim 15, Dreifert discloses, wherein said handle rotates about a first axis 65, and has a handle portion 50 on one side of the first axis, and said handle pin 70 is on the other side of the axis, and wherein said slot 66 is a substantially straight slot extending perpendicular to the direction of reciprocating travel of said latch bar (see Figure 2).

As to claim 16, Dreifert in view of Brautigam discloses (Dreifert discloses the structures, Brautigam teaches their mounting arrangement relative to one another), a method for latching a door against a frame, comprising the steps of: inserting a door pin 40 mounted to the door (Brautigam teaches to place the latch bar on the frame, but also to mount the keeper on the latch bar, and the door pin opposite the keeper on the frame; col.5, ln.34-44) into a first slot 15 completely defined by a latch bar 21 mounted to the frame (Brautigam teaches mounting the latch bar to the frame, and the mounting of the keeper having a slot onto the latch bar); inserting a handle pin 70 mounted to a handle 52 into a second slot 66 on the latch bar 21 (reversal of components teaches that it is obvious to reverse the pin and slot relationship of Dreifert), wherein the handle is mounted to the door (Dreifert already discloses the handle on the door; col.9, ln.5-15; Brautigam only teaches that the latch bar is moved onto the frame; col.5, ln.34-44); and rotating the handle in a first direction so that the door pin urges the latch bar in a first direction so that the first slot moves substantially linearly and cammingly contacts the door pin to urge the door into a latched position.

As to claim 18, Dreifert discloses, wherein said handle rotates about a first axis 65, and has a handle portion 50 on one side of the first axis, and said handle pin 70 is on the other side of the axis, and wherein said second slot 66 is a substantially straight slot extending substantially perpendicular to the direction of reciprocating travel of said latch bar (see Figure 2).

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As to claim 19, Dreifert discloses, wherein the step of rotating the handle further comprises the step of rotating the handle past a top dead center position so that a reaction force retains the latch bar and handle in the latched position (col.16, ln.5-15).

As to claim 20, Dreifert discloses, further comprising the steps of: rotating the handle in a second direction opposite the first direction so that the door pin 70 engages the latch bar 21 (reversal of components teaches the reversal of the pin and slot arrangement between 66 and 70 in Dreifert) in a second direction so that the first slot releases the door pin.

Claims 3-4, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dreifert US5370428 in view of Brautigam US6230457, and further in view of Hull US3981054, and further in view of case law.

As to claim 3, the difference between the claim and Dreifert is the claim recites, wherein a compressible gasket is provided between the door and the frame. Hull discloses a latching mechanism between a frame and door similar to that of Dreifert. In addition, Hull teaches placing a compressible gasket 35 between the door and frame. It would have been obvious to one of ordinary skill in the art, having the disclosures of Dreifert and Hull before him at the time the invention was made, to modify the door and frame of Dreifert to have a gasket therebetween, as in Hull, to obtain a seal. One would have been motivated to make such a combination, because the ability to create a positive fluid-tight seal would have been achieved, as taught by Hull (col.2, ln.45-50).

As to claim 4, Dreifert discloses contact between door and frame when the handle is in the second position (latched position). Hull teaches, wherein said gasket 35 is compressed by a predetermined amount when in the second position.

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As to claim 14, Hull discloses, wherein a compressible gasket 35 is provided between the door and the frame.

As to claim 17, Hull discloses, wherein a compressible gasket 35 is provided between the door and the frame.

Response to Arguments

Applicant's arguments with respect to claims 1-10 and 12-20 have been considered but are moot in view of the new ground(s) of rejection.

The new rejection addresses the newly amended limitations. Dreifert discloses a latch bar having door pins and a handle assembly all mounted on a door/sash, with a keeper mounted on the frame (col.9, ln.5-15). Brautigam teaches moving the latch bar (not the handle) onto the frame, and mounting the slotted/camming keeper on the latch bar, while the door pin is then mounted on the door (col.5, ln.34-44).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-1113.

TYH

WILLIAM L. MILLER
PRIMARY EXAMINER
